

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

THOMAS JONES, JOSEPH  
CHARLES LOHFINK, SUE  
BEAVERS, RODOLFOA REL, and  
HAZEL REED THOMAS, on behalf  
of themselves and others similarly  
situated

and

MARTHA EZELL LOWE,  
individually and on behalf of a class  
of similarly situated employees,  
et al.

CONSOLIDATED  
PLAINTIFFS

v.

CAUSE NO. 1:17cv319-LG-RHW

KPMG LLP and TRANSAMERICA  
RETIREMENT SOLUTIONS  
CORPORATION

DEFENDANTS

**MEMORANDUM OPINION AND ORDER GRANTING TRANSAMERICA  
RETIREMENT SOLUTIONS CORPORATION'S MOTION  
TO DISMISS FOR LACK OF JURISDICTION**

BEFORE THE COURT is the [54] Motion to Dismiss for Lack of  
Jurisdiction filed by the defendant Transamerica Retirement Solutions Corporation.  
The parties have fully briefed the Motion.

The consolidated plaintiffs, who are participants in the Singing River Health  
System Employees' Retirement Plan and Trust ("the Plan"), sued Transamerica  
Retirement Solutions Corporation and others as a result of the underfunding of the  
Plan. In her Complaint [5], Lowe alleges that Transamerica was retained to  
provide investment management for the Plan as well as investment advice to the

Plan Trustees and Plan members. She claims that Transamerica knew or should have known that Singing River Health System had defaulted on its obligations to contribute to the Plan and that Transamerica owed a duty of disclosure as a Plan fiduciary. She claims that Transamerica knowingly participated in and/or aided and abetted the former Plan Trustees' breach of fiduciary duties. Similarly, the Jones plaintiffs allege in their Third Amended Complaint [2] that Transamerica made false representations to plan participants that the Plan was adequately funded and that certain defined benefits were payable to each of them.

The special fiduciary appointed to oversee the Plan has sole authority to file lawsuits on behalf of the Plan. Therefore, for the reasons stated in this Court's [53] Memorandum Opinion and Order granting KPMG's Motion to Dismiss for Lack of Jurisdiction and the Court's Order denying Lowe's Motion to Alter Judgment, which are incorporated herein by reference, Transamerica's Motion to Dismiss is granted.

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that the [54] Motion to Dismiss for Lack of Jurisdiction filed by the defendant Transamerica Retirement Solutions Corporation is **GRANTED**. The plaintiffs' claims against Transamerica are hereby **DISMISSED** for lack of jurisdiction. The Court will enter a separate judgment pursuant to Fed. R. Civ. P. 58.

**SO ORDERED AND ADJUDGED** this the 21<sup>st</sup> day of February, 2020.

*sl Louis Guirola, Jr.*  
LOUIS GUIROLA, JR.  
UNITED STATES DISTRICT JUDGE